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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/509,783	09/29/2004	Robert Kamphuis	915-006.052	7689

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EXAMINER

DOAN, KIET M

ART UNIT PAPER NUMBER

2683

DATE MAILED: 06/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/509,783

**Applicant(s)**

KAMPHUIS, ROBERT

**Examiner**

Kiet Doan

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>09/29/04</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. **Claims 1-13** are rejected under 35 U.S.C. 103(a) as being unpatentable over Bantukul et al. (Pub. No. 2003/0091020) in view of Calatrava-Requena et al. (Patent No. 6,748,229).

Consider **claim 1**, Bantukul teaches method for executing a communication attempt with a mobile terminal device in accordance with attainability status of said mobile terminal device in a cellular communication network having a Short Message Service Center (SMSC) by (Page 1, Paragraphs [0003], [0006-0007], Fig.1 Illustrate mobile terminal No.110/128 as terminal device in communication network having SMSC). Bantukul teach the limitation **but fail to teach** querying said SMSC in said cellular network for obtaining an attainability status of said mobile terminal device, by evaluating connection related data stored in said SMSC, wherein said connection related data related to messages pending for delivery to said mobile terminal device, and delivering said communication attempt to said mobile terminal device in accordance with said attainability status.

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In an analogous art, Calatrava-Requena teaches " Method and apparatus for mobile telecommunication". Further, Calatrava-Requena teaches querying said SMSC in said cellular network for obtaining an attainability status of said mobile terminal device, by evaluating connection related data stored in said SMSC, wherein said connection related data related to messages pending for delivery to said mobile terminal device, and delivering said communication attempt to said mobile terminal device in accordance with said attainability status (C4, L38-67, C5, L1-17, Fig.2 Illustrate No.S-202 and S-203 as querying said SMSC in said cellular network).

Therefore, it would have been obvious at the time that the invention was made that person having ordinary skill in the art to modify Bantukul and Calatrava-Requena system, such that mobile terminal device in a cellular communication network having a Short Message Service Center (SMSC), querying said SMSC in said cellular network for obtaining an attainability status of said mobile terminal device and evaluating connection, to provide means for mobile device capable/ability continue delivery/connection message.

Consider **claims 2 and 13**, Calatrava-Requena teaches method according to claim 1, wherein said query of said SMSC further comprises a query of a Home Location Register (HLR) of the cellular communication network for an attainability status of said mobile terminal device and wherein said attainability status is obtained by evaluating connection related data stored in said HLR (c6,

L21-38, Fig.2, No.E-031 Illustrate query of a Home Location Register (HLR) of the cellular communication network for an attainability).

Consider **claim 3**, Calatrava-Requena teaches method according to claim 1, wherein said connection related data are related to the connection state of said mobile terminal device (connection related data are related to the connection is inherent in Calatrava-Requena system).

Consider **claim 4**, Bantukul teaches method according to claim1 wherein said data are location related (Page 1, Paragraph [0006]).

Consider **claim 5**, Bantukul teaches method according to claim 1, wherein said valuating comprises the valuating of data related to the communication to be attempted (Page 1, Paragraph [0008], Page 2, Paragraph [0009] teach capable transceiver short message which means as valuating of data).

Consider **claim 6**, Calatrava-Requena teaches method according to claim 1, wherein said query is executed by initiating a Short Message delivery to said SMSC, said Short Message being destined for said mobile terminal device (Fig.2, Illustrate the limitation).

Consider **claim 7**, Bantukul teaches software tool for executing a communication attempt with a mobile terminal device in accordance with the

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attainability status of said mobile terminal device in a cellular communication network, comprising program code means for carrying out the steps of claim 1 when said software tool is implemented in a program on a Short Message Service Center, Service Center or a network device (Page 3, paragraph [0032] teach program load which inherently contain software tool).

Consider **claim 8**, Bantukul teaches computer program for executing a communication attempt with a mobile terminal device in accordance with the attainability status of said mobile terminal device in a cellular communication network, comprising program code means for carrying out the steps of claim 1 when said program is run on a Short Message Service Center, a Service Center or a network device (Page 3, Paragraph [0032] teach communication subsystem which contain computer program).

Consider **claim 9**, Bantukul teaches computer program product comprising program code means stored on a computer readable medium for carrying out the method of anyone of claims 1 to 6 when said program product is run on a Short Message Service Center, a Service Center or a network device (Page 3, Paragraph [0032]).

Consider **claim 10**, Bantukul teaches Short Message Service Center (SMSC), connectable to a cellular communication network comprising a Home Location Register (HLR), comprising components for receiving messages,

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forwarding messages, and querying HLR data of a mobile terminal device (Page 1, Paragraphs [0003], [0006-0007], Fig.1 Illustrate cellular communication network having SMSC and HLR data of a mobile terminal device), characterized by: a component for obtaining data related to the attainability status of a mobile terminal device (Fig.1, No.118 which would read on component),

component for evaluating said data related to the attainability status of a mobile terminal device, to obtain a attainability status by evaluating data being related to messages pending for delivery to said mobile terminal device, and a component for delivering messages according to said obtained data related to the attainability status of said terminal device (Page 1, Paragraphs [0003], [0006-0008], Page 3, Paragraph [0032]).

Consider **claim 11**, Bantukul teaches Short Message Service Center (SMSC) of claim 10, further comprising a component for generating a message according to results from the said component for evaluating (Page 1, Paragraphs [0003], [0006-0008]).

Consider **claim 12**, Bantukul teaches network device connectable to a Short Message Service Center (SMSC) of a cellular communication network (Fig.1, Illustrate the network which contain SMSC), comprising: components for sending and receiving messages, characterized by: a component for generating a message for querying a SMSC for data being related to messages pending for

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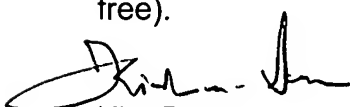
delivery to a mobile terminal device and transferring said data to said network device, a component for obtaining an attainability status from said transferred data, and a component for delivering communication attempts according to said attainability status (Page 1, Paragraphs [0003], [0006-0008], Page 3, Paragraph [0032]).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kiet Doan whose telephone number is 571-272-7863. The examiner can normally be reached on 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost can be reached on 571-272-7872. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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